

**REMARKS/ARGUMENTS**

Reconsideration of this application and entry of the foregoing amendments are respectfully requested.

The first page of the application has been amended to update the status of the parent case. The Examiner's attention is respectfully directed to the fact that the April 13, 2001 coversheet directed entry of a paragraph making specific reference to the earlier filed cases.

The Examiner's comment regarding Information Disclosure Statements is noted. Return of the initialed PTO-1449 Form filed April 13, 2001 is appreciated.

The title has been revised, as requested by the Examiner.

The claims have been revised to define the invention with additional clarity. The claims as presented are fully supported by an enabling disclosure, including the claims as originally filed. That the claims have been revised should not be construed as an indication that Applicants agree with any view expressed by the Examiner. Rather, the revisions are made merely to advance prosecution and Applicants reserve the right to pursue any deleted subject matter in a continuation application.

Claims 8-13, 15-18, 24 and 25 stand rejected under 35 USC 101. Withdrawal of the rejection is submitted to be in order in view of the above claim revisions. Reconsideration is requested.

Claims 8-13, 15-18 and 21-25 stand rejected under 35 USC 112, first paragraph, as allegedly lacking written description. Claims 21 and 24 stand separately rejected under

35 USC 112, first paragraph, as lacking written description. Withdrawal of both rejections is submitted to be in order for the reasons that follow.

The above-noted claim revisions are believed to address various of the Examiner's concerns as the claims as now presented recite specific nucleotide sequences (that recited in claims 28 and 35 being the coding sequence of Fig. 13, that recited in claim 36 being the sequence of Fig. 14) or a specific amino acid sequence (that recited in claims 26, 29 and 34 being the sequence of "formula I", set forth in Fig. 13).

As regards the reference to "fragments" that possess inhibitory activity, attention is directed first to the fact that the recited sequences are relatively short, the recited amino acid sequence (the "formula I" sequence) being only 57 residues in length. Further, the specification describes methods of determining the potency of polypeptides to act as an elastase inhibitor (see, for example, page 11 and pages 18 and 19). In addition, the specification provides examples of polypeptides that include fragments of the "formula I" sequence that possess elastase inhibitory activity (see, for example, pages 25 and 26; see too pages 2 and 3).

New claims 34-36 relate to the complement of a recited nucleotide sequence or to the complement of nucleotide sequences encoding a recited amino acid sequence.

Summarizing, the subject matter of the claims as now presented was clearly in Applicants' possession at the relevant date, as evidenced by the specification. Accordingly, reconsideration and withdrawal of the rejections are requested.

Claims 8-13 and 15-18 stand rejected under 35 USC 112, first paragraph, as allegedly being non-enabled. Withdrawal of the rejection is submitted to be in order in view of the above claim revisions and comments that follow.

The complementary sequences referred to in the present claims (claims 34-36) are, as taught by the specification, useful, for example, as probes in detecting the presence of the claimed encoding sequences (see, for example, pages 9-11). No undue experimentation would be required on the part of one skilled in the art to use the claimed complements in the manner described. Reconsideration is requested.

Claims 8-13, 15-18 and 21-25 stand rejected under 35 USC 112, second paragraph, as allegedly being indefinite. Withdrawal of the rejection is submitted to be in order in view of the above claim revisions. Reconsideration is requested.

Claims 8, 11 and 15 stand rejected under 35 USC 102(b) as allegedly being anticipated by New England Biolabs Catalog. As the rejection is understood, it is not believed to be applicable to the claims as now presented. Accordingly, reconsideration is requested.

Claims 12, 13, 17 and 18 stand rejected under 35 USC 102(b) as allegedly being anticipated by Maniatis et al. Withdrawal of the rejection is submitted to be in order in view of the above claim revisions. Reconsideration is requested.

Claims 7-9, 11-13, 15-18 and 21-25 stand rejected under 35 USC 102(e) as allegedly being anticipated by Remold O'Donnell. Withdrawal of the rejection is submitted to be in order for the reasons that follow.

CHRISTOPHERS et al  
Appl. No. 09/833,799  
October 9, 2003

Insofar as the present claims relate to fragments, those fragments represent portions of the recited 57 residue amino acid sequence (that is, the "formula I" sequence) that possess inhibitory activity against human leukocyte elastase. Given that the elastase inhibitor of the citation appears to be unrelated to that of "formula I", the rejections are not believed to be applicable to the present claims. Reconsideration is requested.

This application is submitted to be in condition for allowance and a Notice to that effect is requested.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:

*B. J. Murphy Reg. No. 36663*  
*(fms)* Mary J. Wilson  
Reg. No. 32,955

MJW:tat  
1100 North Glebe Road, 8th Floor  
Arlington, VA 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100